IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 33 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOMETAX

Versus

SABARMATI INVESTMENTS PVT.LTD.

Appearance:

1. INCOME TAX REFERENCE No. 33 of 1992

MR MANISH R BHATT for Petitioner No. 1

MR KC PATEL for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA
and
MR.JUSTICE D.A.MEHTA

Date of decision: 13/08/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

1. This is a reference made by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A' at the instance

of the Commissioner of Income Tax, Gujarat-II, Ahmedabad raising the following question of law for the opinion of this Court :

"Whether, the Tribunal is right in law and on facts in cancelling the interest charged u/s. 201 of the I.T. Act ?"

2. When the matter was called out Mr.M.R.Bhatt, learned senior standing counsel for the Income Tax Department and Mr.R.K.Patel respectively appearing for the applicant and the respondent have made a joint request that since the controversy brought by way of this reference stands concluded, the matter may be taken up for hearing and disposed off by this bench despite the fact that one of us (D.A.Mehta, J) had appeared before the Tribunal in reference proceedings.

3. The Assessment Year is 1982-83. It is common ground between the parties that the question referred to this Court is concluded by the decision of this Court rendered on 25-06-2003 in Income Tax Reference No.223 of 1991 in the case of Commissioner of Income Tax Vs. Koshalya Investment P. Ltd. IVL. The Tribunal in the impugned order has relied upon its own decision in the case of Kaushalya Investment P. Ltd. which has since been decided vide the aforesaid judgement dated 25-06-2003.

4. In light of the aforesaid fact situation the question referred to us is answered in affirmative i.e. in favour of the assessee and against the revenue.

5. The reference thus stands disposed off accordingly with no order as to costs.

Sd/- Sd/-
[D.H.WAGHELA, J] [D.A.MEHTA, J]
'Bhavesh'